



CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1750

Statement of Policy on Enforcement Discretion Regarding General Conformity Certificates for the Requirements of the Refrigerator Safety Act

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Statement of enforcement policy.

SUMMARY: The Consumer Product Safety Commission (CPSC) is issuing a Statement of Policy regarding the CPSC's enforcement of the requirement for a general conformity assessment certificate regarding CPSC's standard for household refrigerators. CPSC will not enforce the requirements to issue a general certificate of conformity for household refrigerators if the product displays an appropriate safety certification mark indicating compliance.

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Troy W. Whitfield, Lead Compliance Officer, the Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East West Hwy., Bethesda, MD 20814; telephone: 301-504-7548; email: twhitfield@cpsc.gov.

SUPPLEMENTARY INFORMATION: The CPSC¹ is issuing a Statement of Policy regarding the CPSC's enforcement of the requirement for a general conformity assessment certificate regarding CPSC's standard for household refrigerators.

A. Background

¹ The Commission voted 3–2 to publish this notice in the *Federal Register*. Acting Chairman Anne Marie Buerkle and Commissioners Dana Baiocco and Peter A. Feldman voted to publish this notice. Commissioners Robert S. Adler and Elliot F. Kaye voted against publication of this notice.

1. Refrigerator Safety Act and Implementing Regulation

The Refrigerator Safety Act (RSA) was enacted on August 2, 1956 to prevent deaths of young children who could become trapped inside of a household refrigerator and suffocate. 15 U.S.C. 1211-14. When the RSA was enacted, household refrigerators were typically equipped with external latches that held the refrigerator door shut when not in use.

To prevent accidental entrapment of children, the RSA requires household refrigerators to have a device that enables the household refrigerator door to be opened easily from the inside. The regulation implementing the RSA, 16 CFR part 1750, describes in detail the requirements and minimum releasing forces for household refrigerators. Part 1750 applies to household refrigerators manufactured and introduced into interstate commerce after October 30, 1958. The regulation requires devices to allow household refrigerators to be opened from the inside while the household refrigerator is in its normal operating position. This is accomplished by applying an outwardly directed force to the inside of the door, or by rotating a knob, similar to a conventional doorknob, that meets certain activation force requirements. The device must function automatically, and it must work whether or not the refrigerator has electrical power. Normal use of the product must not affect compliance with the anti-entrapment requirement.

2. Voluntary Standard for Refrigerators

The current voluntary standard for refrigerator safety is Underwriters Laboratories Standard 60335-2-24 (UL 60335-2-24), *Household and Similar Electrical Appliances – Safety – Part 2-24: Particular Requirements for Refrigerating Appliances, Ice-Cream*

Appliances and Ice-Makers. UL 60335-2-24 includes the entrapment protection requirements of 16 CFR part 1750 for household refrigerators sold in the United States.

The 2017 Edition of the *National Electrical Code*[®] (*NEC*[®]) requires all appliances operating at 50 volts or more to be listed, which means that all refrigerators must be certified to the requirements of UL 60335-2-24. Although compliance with the *NEC*[®] is not a federal requirement, the *NEC*[®] has been widely adopted by states and local jurisdictions.² Because failure to comply with the *NEC*[®] would limit market share, due to restrictions on where the products could be installed, and because manufacturers would expose themselves to additional liability if their products do not meet the applicable voluntary standards, it is likely that all refrigerators have been certified for compliance with UL 60335-2-24.

3. Requirement for General Conformity Certificate

Section 14(a)(1) of the Consumer Product Safety Act (CPSA), as amended by the Consumer Product Safety Improvement Act (CPSIA), requires that all manufacturers of consumer products “subject to a consumer product safety rule under this Act or similar rule, ban, standard, or regulation under any other Act enforced by the Commission” and that are imported or distributed in commerce, must issue a general certificate of conformity (GCC) certifying that “based on a test of each product or upon a reasonable testing program, that such product complies with all rules, bans, standards, or regulations applicable to the product.” 15 U.S.C. 2063(a)(1).

4. CPSC Request for Comments on Burden Reduction

²<https://www.nema.org/Technical/FieldReps/Documents/Adoption%20of%20the%20National%20Electrical%20Code%20by%20State%20or%20local%20jurisdiction.pdf>

In 2017, CPSC published a *Federal Register* notice asking for suggestions from stakeholders on ways to reduce regulatory burdens.³ In response, the Association of Home Appliance Manufacturers (AHAM) requested that CPSC issue a statement of enforcement discretion indicating that CPSC would not enforce the requirements to issue a GCC for household refrigerators if the product complied with the requirements of the RSA and if the product displayed a safety certification mark indicating compliance with UL 60335-2-24.

B. Rationale for Enforcement Discretion

1. Market Survey

In February 2019, CPSC staff conducted a limited market survey to determine the number of household refrigerators for retail sale that displayed a safety certification mark. Staff found that 38 of 38 household refrigerators surveyed displayed a safety certification mark, indicating that 100 percent of household refrigerators surveyed were certified to comply with UL 60335-2-24, and therefore, the entrapment prevention requirements of the RSA as well.

2. Incident Data

CPSC staff searched the Consumer Product Safety Risk Management System (CPSRMS) and the Medical Examiners and Coroners Alert Project (MECAP) databases for the period covering January 1, 2000 to January 31, 2019, and found no entrapment deaths involving household refrigerators. CPSC staff searched the non-fatal reports in CPSRMS, using keyword search due to the large amount data, for the period covering January 1, 2000 to January 31, 2019 and found one entrapment incident within the scope

³ <https://www.federalregister.gov/documents/2018/03/01/2018-04129/commission-agenda-and-priorities-notice-of-hearing>

of the RSA in June of 2000, which resulted in no injuries. In that incident, a 2-year-old male, apparently unaided, climbed into a refrigerator and the door closed behind him, but he was found before suffering any injury.

CPSC staff also searched the National Electronic Injury Surveillance System (NEISS) database for the period covering January 1, 2000 to December 31, 2017, using a keyword search due to the large amount data, and found no entrapment deaths or injuries involving household refrigerators.

3. Compliance Activity

CPSC Compliance staff reviewed the Section 15 (Defects) Dynamic Case Management system (DCM), the legacy files database, and the Integrated Field System (IFS) database. There were a total of 73 refrigerator cases in the Section 15 database dating back to 1974. These cases concerned electrical issues, overheating components, component part failures, and refrigerant leaks. Staff found no cases that involved entrapment in household refrigerators. Thus, CPSC has not had any enforcement cases or recalls of household refrigerators related to noncompliance with the RSA since enforcement of the RSA was transferred to CPSC in 1973.

4. Safety Mark

Safety certification bodies, such as UL, authorize a product to bear their safety certification or listing mark based on a determination by the certification body that the product meets widely accepted standards.⁴ Household refrigerators display a safety certification mark indicating that the product meets the entrapment safety requirements in UL 60335-2-24, which include the entrapment safety requirements in the RSA. Several

⁴ <https://www.ul.com/marks/ul-listing-and-classification-marks/promotion-and-advertising-guidelines/specific-guidelines-and-rules/>

certification bodies issue safety certification marks indicating compliance with UL 60335-2-24. We are aware of UL, the CSA Group that issues the CSA safety certification mark, and Intertek, which issues the ETL safety certification mark⁵ as examples of acceptable safety certification marks demonstrating compliance with UL 60335-2-24. However, for purposes of this enforcement policy, the Commission will accept a safety certification mark from any Nationally Recognized Testing Laboratory that is listed by the Occupational Safety and Health Administration as meeting the requirements under 29 CFR 1910.7,⁶ and if UL 60335-2-24 is one the Recognized Testing Standards as an indication that the refrigerator meets the RSA and 16 CFR part 1750.

Certification bodies prohibit display of their safety certification marks on products that they have not determined meet UL 60335-2-24. Products that display the certification mark are certified to meet the entrapment requirements in the RSA and 16 CFR part 1750. This safety certification mark is readily visible to CPSC staff, U.S. Customs and Border Protection, retailers, and consumers, because it is prominently displayed on the product. Because it is industry practice to certify household refrigerators to UL 60335-2-24, household refrigerators will be tested to the requirements in the RSA and 16 CFR part 1750.

5. Cost of Issuing GCC for the Refrigerator Safety Act

To produce and distribute GCCs, manufacturers and importers incur some costs. The manufacturer or importer must collect the information that is required to be on the certificate. The certificate incorporating this information must be generated and

⁵ <http://www.intertek.com/marks/etl/>

⁶ <https://www.osha.gov/dts/otpca/nrtl/nrtllist.html>

furnished to each distributor or retailer (and to the Commission, if requested), and the certificate must be retained on file for each model manufactured or imported. In addition to the direct costs associated with generating and distributing each certificate, manufacturers and importers: (1) need to develop internal procedures to ensure that the necessary information is sent to employees who are responsible for generating the certificates and the employees responsible for distributing the certificates; (2) these procedures must be reviewed to ensure that they will result in compliance with the legal requirements for the content and distribution of general conformity certificates; and (3) the employees must be provided guidance or training for following these procedures.

CPSC staff estimates the cost of issuing and distributing a GCC per model would be \$51.75 to \$103.50 per model. The costs in question are incurred solely to issue a GCC, which provides the same entrapment prevention compliance information as the safety certification mark.

6. Conclusion

As discussed above, the following information indicates that household refrigerators bearing a safety certification mark will meet the entrapment prevention requirements of the RSA:

- review of CPSC's databases covering the past 20 years found no reported refrigerator-entrapment fatalities;
- CPSC has not had any recalls or compliance cases since taking over the RSA in 1973; and
- Staff's limited market survey indicates a high level of compliance with the voluntary standard, and indicates that refrigerators that bear a listing mark

to UL 60335-2-24 will meet the entrapment prevention requirements of the RSA.

This statement of policy could reduce costs manufacturers and importers incur when issuing and distributing a GCC, while maintaining the safety protection the RSA provides. Thus, a safety certification mark indicating compliance with UL 60335-2-24 is an appropriate proxy for a GCC indicating compliance with RSA and 16 CFR part 1750. Therefore, the Commission determines that enforcement of the requirement for issuance of a GCC for household refrigerators is unnecessary because when the household refrigerators bear an appropriate safety certification mark that indicates compliance with UL 60335-2-24, the safety certification mark also indicates that the product will be compliant with the CPSC mandatory requirements for household refrigerators.

C. Statement of Enforcement Policy

The Commission is exercising the following enforcement discretion: Effective **[Insert date of publication in the *Federal Register*]**, the Commission will not pursue compliance or enforcement actions against manufacturers, importers or private labelers of household refrigerators for failure to issue, provide, or make available to the Commission a GCC, as required by 15 U.S.C. 2063(a)(1), provided that the product bears an appropriate safety certification mark indicating compliance with UL Standard 60335-2-24. Household refrigerators must still comply with all requirements under the RSA and 16 CFR part 1750. Failure to comply with the RSA and 16 CFR part 1750 will still subject the products to enforcement action.

This statement of policy, and the enforcement discretion described here, is limited to certificates required for the RSA and 16 CFR part 1750. If a household refrigerator does not bear an appropriate safety mark indicating compliance with UL Standard 60335-2-24, none of this policy, the enforcement discretion described in this policy, nor the

implications of such enforcement discretion shall apply. Any misrepresentation or omission regarding a household refrigerator bearing a safety mark indicating compliance with UL Standard 60335-2-24 could subject the firm to compliance or enforcement action and potential civil and/or criminal penalties. Should the Commission become aware of unsafe products entering the market as a result of this statement of policy, it reserves the right to withdraw the policy prospectively with no less than 90 days' notice. This policy is not a binding rule and does not change any person's right, duties, or obligations under any statutes administered by the CPSC.

Alberta E. Mills, Secretary

Consumer Product Safety Commission

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